

After some further time,

# 136.12 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment in the nature of a substitute submitted by Mr. SMITH of New Jersey:

Strike all after the enacting clause and insert the following:

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Clinic Violence and Obstruction Prevention Act of 1993".

## SEC. 2. PREVENTION OF VIOLENCE AND OBSTRUCTION AT REPRODUCTIVE HEALTH FACILITIES.

Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

### "§ 248. Preventing violence and obstruction at reproductive health facilities

"(a) PROHIBITED ACTIVITIES.—Whoever—

"(1) by force or threat of force, intentionally injures, intimidates, or physically obstructs any person, or attempts to do so, because that person or any other person is lawfully providing or obtaining reproductive health services;

"(2) by force or threat of force, intentionally injures, intimidates, or physically obstructs any person who is lawfully engaging in activity protected by the first article of amendment to the Constitution, or attempts to do so—

"(A) in or on, or within 500 feet of, a facility lawfully providing reproductive health services; or

"(B) in or on, or within 300 feet of, the residence of a person lawfully providing or obtaining reproductive health services; or

"(3) intentionally damages or destroys the property of a facility that is providing reproductive health services, or attempts to do so; shall be punished as provided in subsection (b) of this section and shall also be subject to the civil remedy provided in subsection (c) of this section, except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

"(b) PENALTIES.—Whoever violates subsection (a) of this section shall be fined under this title or imprisoned not more than 1 year, or both, except that, if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

"(c) CIVIL ACTIONS.—

"(1) RIGHT OF ACTION GENERALLY.—Any person who is aggrieved by a violation of subsection (a) of this section may in a civil action obtain relief under this subsection.

"(2) ACTION BY ATTORNEY GENERAL.—If the Attorney General has reasonable cause to believe that any person, or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, and such conduct raises an issue of general public importance, the Attorney General may commence a civil action and obtain relief under this subsection.

"(3) RELIEF.—(A) In any action under this subsection, the court may award any appropriate relief, including temporary, preliminary, or permanent injunctive relief, subject to subparagraph (B), and compensatory damages for each person aggrieved by the violation.

"(B) No court may issue a temporary, preliminary, or permanent injunction in any case involving or growing out of a demonstration within 500 feet of a facility providing reproductive health services or within 300 feet of the residence of a person lawfully

engaging in activity protected under subsection (a)(1), except—

"(i) after hearing the testimony of witnesses in open court in support of the allegations of a complaint made under oath and the testimony offered in opposition thereto, and the granting to opposing parties of the right to cross-examine such witness; and

"(ii) after the court has made and filed with the record in the case findings of fact to the effect that—

"(I) unlawful acts have been threatened and will be committed, or have been committed and will be continued, unless restrained;

"(II) substantial irreparable injury to complainant's person or property will follow;

"(III) as to each item of relief granted, greater injury will be inflicted upon complainant by the denial of relief that will be inflicted upon defendants by the granting of relief; and

"(IV) complainant has no adequate remedy at law.

No such restraining order or injunction may be issued on account of any threat or unlawful act except against a person making the threat or committing the unlawful act or authorizing or ratifying the same with actual knowledge thereof. Every restraining order or injunction granted in a case involving or growing out of a demonstration within 500 feet of a facility providing reproductive health services or within 300 feet of the residence of a person lawfully engaging in activity protected under subsection (a)(1) shall include only a prohibition of such specific conduct as may be expressly complained of in the complaint filed in such case and as shall be expressly included in the findings of fact.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit or limit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first article of amendment to the Constitution.

"(e) NON-PREEMPTION.—Congress does not intend this section to provide the exclusive remedies with respect to the conduct prohibited by it, nor to preempt the legislation of the States that may provide such remedies.

"(f) DEFINITIONS.—As used in this section, the following definitions apply:

"(1) REPRODUCTIVE HEALTH SERVICES.—The term 'reproductive health services' means reproductive health services provided in a hospital, clinic, physician's office, or other facility, and includes medical, surgical, counselling or referral services relating to the human reproductive system.

"(2) FACILITY.—The term 'facility' includes the building or structure in which the facility is located.

"(3) PHYSICALLY OBSTRUCTS.—The term 'physically obstructs' means rendering impassable—

"(A) ingress or egress, or rendering passage unreasonably difficult; or

"(B) public ways or traditional public fora or rendering passage through public ways or traditional public fora unreasonably difficult.

"(4) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

## SEC. 3. EFFECTIVE DATE.

This Act takes effect on the date of the enactment of this Act, and shall apply only with respect to conduct occurring on or after such date.

## SEC. 4. CLERICAL AMENDMENT.

The table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by adding at the end the following new item:

"248. Preventing violence and obstruction at reproductive health facilities."

It was decided in the { Yeas ..... 177  
negative ..... } Nays ..... 255

# 136.13

[Roll No. 580]

AYES—177

Allard	Hall (TX)	Orton
Applegate	Hancock	Oxley
Archer	Hansen	Packard
Armey	Hastert	Parker
Bachus (AL)	Hayes	Paxon
Baker (CA)	Hefley	Penny
Baker (LA)	Herger	Peterson (MN)
Ballenger	Hoekstra	Petri
Barcia	Hoke	Pombo
Barrett (NE)	Holden	Portman
Bartlett	Huffington	Poshard
Barton	Hunter	Quillen
Bateman	Hutchinson	Quinn
Bentley	Hutto	Rahall
Bevill	Hyde	Ravenel
Bilirakis	Inglis	Regula
Bliley	Inhofe	Roberts
Blute	Istook	Rogers
Boehner	Johnson, Sam	Rohrabacher
Borski	Kanjorski	Ros-Lehtinen
Browder	Kasich	Roth
Bunning	Kildee	Rowland
Burton	Kim	Royce
Buyer	King	Santorum
Callahan	Kingston	Sarpalius
Calvert	Klink	Saxton
Camp	Knollenberg	Schaefer
Canady	Kyl	Sensenbrenner
Castle	LaFalce	Shaw
Coble	Levy	Shuster
Collins (GA)	Lewis (CA)	Skeen
Combest	Lewis (FL)	Skelton
Costello	Lightfoot	Smith (MI)
Crane	Linder	Smith (NJ)
Crapo	Lipinski	Smith (OR)
Cunningham	Livingston	Smith (TX)
de la Garza	Manton	Solomon
Deal	Manzullo	Spence
DeLay	Mazzoli	Stearns
Diaz-Balart	McCollum	Stenholm
Doolittle	McCrery	Stump
Dornan	McDade	Stupak
Dreier	McHugh	Sundquist
Duncan	McInnis	Talent
Dunn	McKeon	Tanner
Emerson	McMillan	Tauzin
Everett	McNulty	Taylor (MS)
Ewing	Mica	Taylor (NC)
Fields (TX)	Michel	Tejeda
Fish	Miller (FL)	Thomas (WY)
Gallegly	Mollohan	Tucker
Gekas	Montgomery	Volkmer
Gillmor	Moorhead	Vucanovich
Gingrich	Murphy	Walker
Goodlatte	Murtha	Walsh
Goodling	Myers	Weldon
Goss	Nussle	Wolf
Grams	Oberstar	Young (AK)
Hall (OH)	Ortiz	Young (FL)

NOES—255

Abercrombie	Clement	Fawell
Ackerman	Clyburn	Fazio
Andrews (ME)	Coleman	Fields (LA)
Andrews (TX)	Collins (IL)	Filner
Bacchus (FL)	Collins (MI)	Fingerhut
Baessler	Condit	Flake
Barca	Cooper	Foglietta
Barlow	Coppersmith	Ford (MI)
Barrett (WI)	Cox	Ford (TN)
Becerra	Coyne	Fowler
Beilenson	Cramer	Frank (MA)
Bereuter	Danner	Franks (CT)
Berman	Darden	Franks (NJ)
Bilbray	de Lugo (VI)	Frost
Bishop	DeFazio	Furse
Blackwell	DeLauro	Gallo
Boehlert	Dellums	Gejdenson
Bonilla	Derrick	Gephardt
Bonior	Deutsch	Geren
Boucher	Dingell	Gibbons
Brewster	Dixon	Gilchrest
Brooks	Dooley	Gilman
Brown (CA)	Durbin	Glickman
Brown (FL)	Edwards (CA)	Gonzalez
Brown (OH)	Edwards (TX)	Gordon
Bryant	Engel	Grandy
Byrne	English (AZ)	Green
Cantwell	English (OK)	Greenwood
Cardin	Eshoo	Gunderson
Carr	Evans	Gutierrez
Chapman	Faleomavaega	Hamburg
Clay	(AS)	Hamilton
Clayton	Farr	Harman

Hastings	McHale	Schroeder
Hefner	McKinney	Schumer
Hilliard	Meehan	Scott
Hinchey	Meek	Serrano
Hoagland	Menendez	Sharp
Hobson	Meyers	Shays
Hochbrueckner	Mfume	Shepherd
Horn	Miller (CA)	Sisisky
Houghton	Mineta	Skaggs
Hoyer	Minge	Slattery
Hughes	Mink	Slaughter
Inslee	Moakley	Smith (IA)
Jacobs	Molinari	Snowe
Jefferson	Moran	Spratt
Johnson (CT)	Morella	Stark
Johnson (GA)	Nadler	Stokes
Johnson (SD)	Natcher	Strickland
Johnson, E. B.	Neal (MA)	Studds
Johnston	Neal (NC)	Sweet
Kaptur	Norton (DC)	Swift
Kennedy	Obey	Synar
Kennelly	Olver	Thomas (CA)
Kleccka	Owens	Thompson
Klein	Pallone	Thornton
Klug	Pastor	Thurman
Kolbe	Payne (NJ)	Torkildsen
Kopetski	Payne (VA)	Torres
Kreidler	Pelosi	Torricelli
Lambert	Peterson (FL)	Towns
Lancaster	Pickett	Traficant
Lantos	Pickle	Underwood (GU)
LaRocco	Pomeroy	Unsoeld
Laughlin	Porter	Upton
Lazio	Price (NC)	Valentine
Leach	Pryce (OH)	Velazquez
Lehman	Ramstad	Vento
Levin	Rangel	Viscosky
Lewis (GA)	Reed	Washington
Lloyd	Reynolds	Waters
Long	Richardson	Watt
Lowey	Ridge	Waxman
Machtley	Roemer	Wheat
Maloney	Rose	Whitten
Mann	Rostenkowski	Williams
Margolies-	Roukema	Wilson
Mezvinsky	Roybal-Allard	Wise
Markey	Rush	Woolsey
Martinez	Sabo	Wyden
Matsui	Sanders	Wynn
McCandless	Sangmeister	Yates
McCloskey	Sawyer	Zeliff
McCurdy	Schenk	Zimmer
McDermott	Schiff	

## NOT VOTING—6

Andrews (NJ)	Dickey	(PR)
Clinger	Dicks	
Conyers	Romero-Barcelo	

So the amendment in the nature of a substitute was not agreed to.

The SPEAKER pro tempore, Mr. SKELTON, assumed the Chair.

When Mr. KOPETSKI, Chairman, pursuant to House Resolution 313, reported the bill back to the House with an amendment adopted by the Committee.

The previous question having been ordered by said resolution.

Mr. WALKER demanded a separate vote on the amendment on page 3, line 8 (the DELAY amendment).

The question being put, viva voce,

Will the House agree to the following amendment on which a separate vote had been demanded?

Page 3, line 8, strike the period and insert the following: “, except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.”

The SPEAKER pro tempore, Mr. SKELTON, announced that the yeas had it.

Mr. WALKER demanded a recorded vote on agreeing to the amendment, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 345  
Nays ..... 80

136.14

[Roll No. 581]

AYES—345

Ackerman	Fields (TX)	Livingston
Allard	Fingerhut	Lloyd
Andrews (TX)	Fish	Lowey
Applegate	Flake	Machtley
Archer	Foglietta	Mann
Armey	Fowler	Manton
Bachus (AL)	Franks (CT)	Manzullo
Baessler	Franks (NJ)	Markey
Baker (CA)	Frost	Martinez
Baker (LA)	Furse	Mazzoli
Ballenger	Gallegly	McCandless
Barca	Gallo	McCloskey
Barcia	Gekas	McCollum
Barlow	Geren	McCrery
Barrett (NE)	Gibbons	McCurdy
Barrett (WI)	Gilchrest	McDade
Bartlett	Gillmor	McHale
Barton	Gingrich	McHugh
Bateman	Glickman	McInnis
Beilenson	Goodlatte	McKeon
Bentley	Goodling	McMillan
Bereuter	Gordon	McNulty
Berman	Goss	Menendez
Bevill	Grams	Meyers
Bilbray	Grandy	Mfume
Bilirakis	Green	Mica
Bishop	Greenwood	Michel
Bliley	Gunderson	Miller (CA)
Blute	Hall (OH)	Miller (FL)
Boehner	Hall (TX)	Minge
Bonilla	Hamilton	Moakley
Bonior	Hancock	Molinari
Borski	Hansen	Mollohan
Boucher	Harman	Montgomery
Brewster	Hastert	Moorhead
Browder	Hayes	Moran
Brown (OH)	Hefley	Murphy
Bryant	Hefner	Murtha
Bunning	Herger	Myers
Burton	Hoagland	Neal (MA)
Buyer	Hobson	Neal (NC)
Byrne	Hochbrueckner	Nussle
Callahan	Hoekstra	Oberstar
Calvert	Hoke	Obey
Camp	Holden	Ortiz
Canady	Houghton	Orton
Cantwell	Hoyer	Oxley
Cardin	Huffington	Packard
Carr	Hughes	Pallone
Castle	Hunter	Parker
Chapman	Hutchinson	Pastor
Clayton	Hutto	Paxon
Clement	Hyde	Payne (VA)
Coble	Inglis	Pelosi
Coleman	Inhofe	Penny
Collins (GA)	Inslee	Peterson (FL)
Combest	Istook	Peterson (MN)
Condit	Jacobs	Petri
Cooper	Johnson (CT)	Pickett
Costello	Johnson (GA)	Pickle
Cox	Johnson (SD)	Pombo
Cramer	Johnson, E. B.	Pomeroy
Crane	Johnson, Sam	Porter
Crapo	Kanjorski	Portman
Cunningham	Kasich	Poshard
Danner	Kennedy	Price (NC)
Darden	Kennelly	Pryce (OH)
de la Garza	Kildee	Quillen
Deal	Kim	Quinn
DeFazio	King	Rahall
DeLauro	Kingston	Ramstad
DeLay	Kleccka	Rangel
Derrick	Klein	Ravenel
Diaz-Balart	Klink	Reed
Dingell	Klug	Regula
Dixon	Knollenberg	Reynolds
Dooley	Kolbe	Richardson
Doolittle	Kyl	Ridge
Dornan	LaFalce	Roberts
Drner	Lambert	Roemer
Duncan	Lancaster	Rogers
Dunn	Lantos	Rohrabacher
Durbin	LaRocco	Ros-Lehtinen
Edwards (TX)	Laughlin	Rostenkowski
Emerson	Lazio	Roth
English (AZ)	Leach	Roukema
English (OK)	Lehman	Rowland
Eshoo	Levin	Roybal-Allard
Everett	Levy	Royce
Ewing	Lewis (CA)	Sangmeister
Farr	Lewis (FL)	Santorium
Fawell	Lightfoot	Sarpalus
Fazio	Linder	Sawyer
Fields (LA)	Lipinski	Saxton

Schaefer	Snowe	Torkildsen
Schenk	Solomon	Torres
Schiff	Spence	Traficant
Schumer	Spratt	Tucker
Sensenbrenner	Stearns	Upton
Serrano	Stenholm	Valentine
Sharp	Strickland	Velazquez
Shaw	Studds	Volkmer
Shays	Stump	Vucanovich
Shuster	Stupak	Walker
Sisisky	Sundquist	Walsh
Skaggs	Swift	Weldon
Skeen	Talent	Wheat
Skelton	Tanner	Whitten
Slattery	Tauzin	Wilson
Slaughter	Taylor (MS)	Wise
Smith (IA)	Taylor (NC)	Wolf
Smith (MI)	Tejeda	Young (AK)
Smith (NJ)	Thomas (CA)	Young (FL)
Smith (OR)	Thomas (WY)	Zeliff
Smith (TX)	Thornton	Zimmer

## NOES—80

Abercrombie	Gonzalez	Payne (NJ)
Andrews (ME)	Hamburg	Rose
Bacchus (FL)	Hastings	Rush
Becerra	Hilliard	Sabo
Blackwell	Hinchey	Sanders
Boehrlert	Horn	Schroeder
Brooks	Jefferson	Scott
Brown (CA)	Johnston	Stark
Brown (FL)	Kopetski	Stokes
Clay	Kreidler	Sweet
Clyburn	Lewis (GA)	Synar
Collins (IL)	Long	Thompson
Collins (MI)	Maloney	Thurman
Conyers	Margolies-	Torricelli
Coppersmith	Mezvinsky	Towns
Coyne	Matsui	Unsoeld
Dellums	McDermott	Vento
Deutsch	McKinney	Viscosky
Edwards (CA)	Meehan	Washington
Engel	Meek	Waters
Evans	Mineta	Watt
Filner	Mink	Waxman
Ford (MI)	Morella	Williams
Ford (TN)	Nadler	Woolsey
Frank (MA)	Natcher	Wyden
Gejdenson	Olver	Wynn
Gilman	Owens	Yates

## NOT VOTING—8

Andrews (NJ)	Dicks	Kaptur
Clinger	Gephardt	Shepherd
Dickey	Gutierrez	

So the amendment was agreed to.

The following amendment, as amended, was then agreed to:

Strike out all after the enacting clause and insert:

## SECTION 1. SHORT TITLE.

This Act may be cited as the “Freedom of Access to Clinic Entrances Act of 1993”.

## SEC. 2. FREEDOM OF ACCESS TO REPRODUCTIVE HEALTH SERVICES.

Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

## “§ 248. Blocking access to reproductive health services

“(a) PROHIBITED ACTIVITIES.—Whoever—

“(1) by force, threat of force, or physical obstruction, intentionally injures, intimidates, or interferes with any person, or attempts to do so, because that person or any other person or class of persons is obtaining or providing reproductive health services; or

“(2) intentionally damages or destroys the property of a facility, or attempts to do so, because that facility provides reproductive health services;

shall be punished as provided in subsection (b) of this section and also be subject to the civil remedy provided in subsection (c) of this section, except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

“(b) PENALTIES.—Whoever violates subsection (a) of this section shall—

“(1) in the case of a first offense, be fined under this title or imprisoned not more than 1 year, or both; and